



	<p>██████████ and thus chambers for all such layers are at issue.</p> <p>Samsung, however, asserted in interrogatory responses that the ██████████</p> <p>██████████ Samsung therefore limited its identified use of ██████████</p> <p>In the last few weeks, Samsung produced ██████████</p> <p>Those materials revealed that, contrary to Samsung's representations, ██████████</p> <p>Demaray promptly requested disclosures regarding Samsung's use of ██████████</p> <p>██████████ Samsung refuses to even identify such uses, let alone provide discovery about them.</p> <p>██████████ are indisputably accused, and Demaray's Final Infringement Contentions specifically identify ██████████</p> <p>Demaray also explained that Samsung ██████████</p> <p>██████████ FICs ('657) at 4. Demaray has now confirmed that ██████████</p> <p>Samsung tries to excuse hiding its full use of ██████████</p>	<p><i>First</i>, the requested discovery is irrelevant and burdensome:</p> <p>██████████</p> <p>Rather, Demaray repeatedly confirmed the accused products ██████████</p> <p>Indeed, Demaray represented to the Court that ██████████</p> <p>9/27/2021 Tr. 36:14-19, 34:23-35:1. Demaray puts the cart before the horse by seeking discovery on unaccused products without seeking leave to add them (which it could not obtain).</p> <p><i>Second</i>, Demaray has not been diligent:</p> <p>Far from "hiding" its use of ██████████, Samsung disclosed them in its <b>December 2020</b> interrogatory responses. <i>See</i> Samsung's Resp. to Transfer Interrogatory No. 1 &amp; Ex. B.</p> <p>In <b>February–May 2021</b>, Samsung and Applied Materials produced technical information ██████████</p> <p>██████████ the same information that Demaray now—<i>over 15 months later</i>—bases its requests to expand the scope of discovery.</p>
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[REDACTED]. But, Samsung has never articulated the details of this argument, let alone revealed that Samsung was using it to withhold discovery. Demaray disagrees with Samsung's unsupported argument, which ignores [REDACTED]

[REDACTED] Some claims merely require "coupling" in this regard, and the patents explicitly teach capacitive coupling through plasma ('276 col. 5:26-27).

Samsung argues that it disclosed details [REDACTED]

[REDACTED]. But Samsung did not disclose details of the [REDACTED]

[REDACTED] This information just came to light.

By hiding its use of [REDACTED] and blocking related disclosures based on a contested apparent non-infringement position, Samsung is effectively pushing for summary judgment of non-infringement by means of a discovery blockade. The Court just recently denied a motion to strike infringement contentions because it would effectively grant summary judgment of non-infringement while fact discovery remained ongoing. The same reasoning applies here.

**Requested Relief:**

Respectfully, the Court should order Samsung to:

- (1) Supplement its response to Interrogatory No. 1 [REDACTED]

In February 2021, Applied Materials' Director of Engineering Keith Miller testified [REDACTED]

In May 2021, Mr. Miller's declaration confirmed [REDACTED]

Fact discovery opened in June 2021, after these disclosures. Yet in the 15 months since, Demaray has neither accused nor sought discovery on [REDACTED]. It is too late for Demaray to seek such discovery, let alone amend its contentions to include all-new products based on an infringement theory it swore off.

Although Demaray claims Samsung's recent production of [REDACTED] matters here, it does not: that production did not relate to [REDACTED] and Demaray does not explain how it provided any pertinent new information. Demaray's reference to Samsung's alleged "configuration" is misleading; as Demaray knows, Samsung [REDACTED]

[REDACTED]. See Case 5:20-cv-9341, ECF 38, at 1. Regardless, that is no excuse for Demaray's failure to seek timely discovery on [REDACTED]

**Third**, allowing this discovery would severely prejudice Samsung. While Samsung reserves all rights to

	<p>[REDACTED];</p> <p>(2) Provide disclosures on [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] and</p> <p>(3) Provide other relevant technical discovery [REDACTED]</p> <p>[REDACTED] development documents, and the like.</p>	<p>oppose any attempt by Demaray at this late stage to amend its contentions to include [REDACTED] this new discovery would only serve theories that would raise new invalidity grounds and claim constructions.</p> <p><b><u>Requested Relief:</u></b></p> <p>An order that Demaray's discovery requests are denied.</p>
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The Court, after having reviewed the parties' respective submissions and heard the parties' positions on September 14, 2022, **DENIES** Plaintiff's requested relief.

In addition, as discussed at the hearing, the parties shall submit a proposed Joint Motion to Modify the Scheduling Order that includes a September 11, 2023 trial date.

**IT IS SO ORDERED.**

SIGNED this 22nd day of September, 2022.

By:   
HON. ALAN D. ALBRIGHT  
UNITED STATES DISTRICT COURT JUDGE